

March 15, 2004

Mr. William Taylor  
Fernald Closure Project  
7400 Willey Road  
Hamilton, OH 45103-9402

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LOG E-0541

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Dear Mr. Taylor,

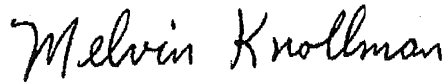
I am writing this letter to express my concern over the plans to remove the Old Outfall Line running from the Fernald Site to the Great Miami River. Fluor Fernald representatives notified us of the scheduled removal in the last few weeks because design and planning work are being initiated on the project and removal is scheduled for the Fall of 2004. As you may be aware, the Old Outfall Line is approximately 4,000 feet in length and is almost all on Knollman Farm, Inc., property. The entire length of the Outfall Line on our property is under cropland that is actively farmed. As the landowner and concerned stakeholder most affected by this action, I am requesting that DOE reconsider its plans for the removal of the Old Outfall Line. It is our understanding that involvement of affected landowners and stakeholders is required for remediation projects under CERCLA.

In late 1992, the Old Outfall Line was taken out of service and the New Outfall Line was installed (see attached photos). The installation of this line disturbed more than 15 acres of cropland and the impacts of that action are still apparent today in the form of decreased crop yields and poor soil conditions. The extreme compaction of the soil during the backfilling of the New Outfall Line resulted in many areas along the length of the line holding water that had not held water in the past. In addition, the mixing of topsoil and subsoil during the backfilling of the line, left the soil in very poor condition and crop yields have still not returned to historic levels. If it is avoidable, we do not want this type of disturbance and interruption to our operation repeated.

It is our understanding that there may be ways to cement grout the Old Outfall Line in place and avoid the removal of the line. We would like to request that DOE explore every possibility related to grouting the line in place before making a decision to remove the line. It is also our understanding that the New Outfall Line will need to be removed after completion of the Aquifer Remediation Project in approximately 2021. We would also object to removal of the New Outfall Line and would request that DOE find a way to leave that line in place.

Please contact us at (513) 738-1745 if there are any questions regarding this matter. If there is benefit in writing letters to the Ohio EPA and U.S. EPA, please let us know. Your cooperation in this matter is greatly appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Melvin Knollman".

Melvin Knollman, Vice President  
Knollman Farms Inc.

Attachment: 1992 Aerial Photos

P10F2

DATE 3-15-04

TO: D.O.E. - OHIO FIELD OFFICE - FCP  
P.O. Box 538705  
CINCINNATI, OH 45253-8705

FROM: ROBERT G. TAYLOR  
214 CITATION CIR  
HARRISBURG, OH 45030

REF. - RBES (RISK-BASE END STATE)

ATTN: WILLIAM J. TAYLOR, DIRECTOR

DEAR MR TAYLOR,

EVEN THOUGH I AM A MEMBER OF THE FCAB,  
FRESH, and FAT&LC, THE FOLLOWING IS MY  
RESPONSE AS AN INDIVIDUAL STAKEHOLDER  
RELATIVE TO THE RBES.

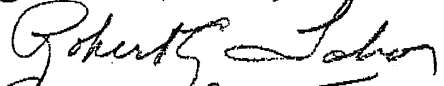
COMMENTS:

- 1.) I AM NOT IN FAVOR OF CHANGING ANY OF  
THE "AGREED TO" STANDARDS OR LEVELS OF  
CLEAN-UP.
- 2.) CONCERNING THE GROUND WATER CLEAN-UP  
ALTERNATIVES MOST RECENTLY PROPOSED,  
ANY ALTERNATE TECHNOLOGY WOULD OR  
SHOULD HAVE SUFFICIENT CAPABILITY  
TO MEET THE NECESSARY CAPACITY AND  
THEN SOME, AS WELL AS, THE QUALITY  
CAPABILITY. I FEEL THE CURRENT FACILITY,

P2 of 2

AWWT, MEETS THAT CAPABILITY BOTH FROM A CAPACITY AND QUALITY PERSPECTIVE - SOME DOWN SIZED RENDITION OF THE AWWT MIGHT BE A BETTER CONSIDERATION IF FEASIBLE, IN AS MUCH AS, THAT TECHNOLOGY AND SYSTEM HAS A PROVEN TRACK RECORD.

- 3.) I DEFINITELY AM NOT IN FAVOR OF ANY WAC - AVERAGING CONCEPTS OR IDEAS. REGARDLESS OF THE WASTE DISPOSAL OPPORTUNITIES IT MAY OFFER WITH RESPECT TO COST & SCHEDULE, I DO NOT FORESEE DOING THAT (WAC-AVERAGING) AS A WISE DECISION, PUBLIC PERCEPTION WILL BE NEGATIVE AND PUBLIC TRUST COMPROMISED, AND THIS SITE AS A BENCHMARK FOR CLEAN-UP WOULD BE DISTORTED. I BELIEVE WAC-AVERAGING WOULD ALSO, BE POLITICALLY UNFAVORABLE.
- 4.) I AM IN FAVOR OF SOME FACILITY TO REMAIN TO SATISFY SOME OF THE STEWARDSHIP ISSUES RELATIVE TO RECORDS RETENTION AND EDUCATIONAL NEEDS.

RESPECTFULLY SUBMITTED,  
  
ROBERT G. TABOR

CC JOHNNY REISING



# Hamilton County

## Board of County Commissioners

John S. Dowlin  
Commissioner  
President of the Board  
Phone (513) 946-4405  
Fax (513) 946-4404

Phil Heimlich  
Commissioner  
Phone (513) 946-4409  
Fax (513) 946-4407

Todd Portune  
Commissioner  
Phone (513) 946-4401  
Fax (513) 946-4446

Room 603  
County Administration Building  
138 East Court Street  
Cincinnati, Ohio 45202

TDD/TTY: (513) 946-4719  
[www.hamilton-co.org](http://www.hamilton-co.org)

David J. Krings  
Administrator  
Phone (513) 946-4420  
Fax (513) 946-4444

Jacqueline Panioto  
Clerk of the Board  
Phone (513) 946-4414  
Fax (513) 946-4444

March 22, 2004

Jack R. Craig, Deputy Manager  
Department of Energy  
Ohio Field Office  
175 Tri County Parkway  
Springdale, Ohio 45246

Dear Mr. Craig:

Thank you for your letter of March 12, 2004 to President John S. Dowlin, Hamilton County Board of Commissioners. I'm not sure I'm reading your letter correctly and accordingly want to follow up directly with you.

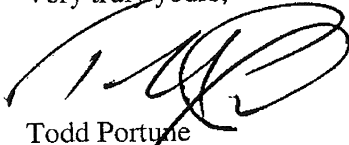
It would appear that your letter suggests an open-ended process which still allows the Department of Energy to modify existing standards or to pursue an approach which could deviate from the existing current regulatory framework, RODs, etc. This appears open-ended notwithstanding the verbal commitment given at our meeting that the DOE would not be pursuing such a strategy as it relates to the Fernald site. Specifically, the department agreed that it was withdrawing any efforts to produce Risk Based End States relative to Fernald.

If I am misreading your correspondence, I would ask that you please advise me at your earliest convenience. If not, then it represents a marked departure from the discussion that we had.

You had also agreed to provide to us by the middle of March, the name or names of the individuals and/or entities who could in essence "trump" the verbal recommendations you were giving to us. In other words, even if you gave us assurances that there would be no relaxation of standards or modification of decisions, could someone else do that and if so, who is/are that someone else? I see no mention of that in your letter and write to formally make such a request.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Todd Portune', written over a horizontal line.

Todd Portune

TBP/ld

cc: Board of County Commissioners; Tom Winston, Ohio EPA; Lisa Crawford, FRESH; Keith N. Corman, Colerain Township Trustees; Warren Strunk, Jr., Crosby Township Trustees; Herbert Brown, Whitewater Township Trustees

John T. Conway, Chairman  
A.J. Eggenberger, Vice Chairman  
John E. Mansfield  
R. Bruce Matthews

## DEFENSE NUCLEAR FACILITIES SAFETY BOARD

625 Indiana Avenue, NW, Suite 700, Washington, D.C. 20004-2901  
(202) 894-7000



April 5, 2004

The Honorable Spencer Abraham  
Secretary of Energy  
1000 Independence Avenue, SW  
Washington, DC 20585-1000

Dear Secretary Abraham:

In testimony and presentations at recent public meetings, the Defense Nuclear Facilities Safety Board (Board) has noted references made by a number of Department of Energy (DOE) officials to DOE initiatives aimed at the characterization and management of risk at defense nuclear facilities. Further, in a recent policy statement, the Office of Environmental Management directed its field elements to develop risk-based end states in their cleanup activities, and separately, the National Nuclear Security Agency (NNSA) designated its site managers as the risk acceptance officials for NNSA sites. However, the framework for these risk characterization and management activities has not been made clear.

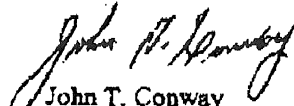
In a related activity, the Board has reviewed the DOE's use of risk management tools at defense nuclear facilities. This review revealed that DOE and its contractors have employed risk assessment in a variety of activities, including the development of documented safety analyses and facility-level decision making. The level of formality of these assessments varies over a wide range. The Board's review also revealed that DOE does not have mechanisms (such as standards or guides) to control the use of risk management tools nor does it have an internal organization assigned to maintain cognizance and ensure the adequacy and consistency of risk assessments. Finally, the Board's review showed that other federal agencies involved in similar high-risk activities (e.g., National Aeronautics and Space Administration, U.S. Nuclear Regulatory Commission) have, to varying degrees, formalized the use of quantitative risk assessment in their operations and decision-making activities. These agencies have relevant standards and defined organizational elements, procedures, and processes for the development and use of risk management tools.

The Honorable Spencer Abraham

Page 2

As a result of these observations, the Board would like to understand DOE's perspective and expectations regarding the use of formal risk assessment in its oversight and operations at defense nuclear facilities. Therefore, pursuant to 42 U.S.C. § 2286b(d), the Board requests that the responsible officials brief the Board within 60 days of receipt of this letter as to DOE's ongoing and planned programs and policies for assessing, prioritizing, and managing risk.

Sincerely,



John T. Conway  
Chairman

c: The Honorable Jessie Hill Roberson  
The Honorable Beverly Ann Cook  
The Honorable Everet H. Beckner  
Mr. Mark B. Whitaker, Jr.





April 6, 2004

The Honorable Jessie Hill Roberson  
Assistant Secretary for Environment Management  
Department of Energy  
1000 Independence Avenue, SW  
Washington, DC 20585-0104

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*Vice Chair*  
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Gene Jablonowski  
William Taylor  
Graham Mitchell

*Support Staff*  
The Perspectives Group

Dear Ms. Roberson:

We are writing to ask about the status of our letter dated December 3, 2003 regarding Risk Based End States (RBES) activities at the Fernald site. That letter was detailed and carefully considered and asked that RBES activities be halted at Fernald. To date, we have received no response from your office.

We were reminded of this issue when reading your March 1, 2004 remarks to the Waste Management Symposium '04. At that time, you reinforced your assertion that DOE cleanups have not taken risk into account in making decisions. As our letter clearly demonstrated, this is simply not true at Fernald. All of the key decisions here were based clearly on risk reduction to a reasonable end use (in Fernald's case, an undeveloped park). In addition, risk to workers and transportation risks were carefully considered in making on- vs. off-site disposal decisions. It was this consideration of risk by stakeholders which resulted in over 70 percent of waste by volume remaining on site.

We have attached our December 3 letter here for your additional review and look forward to a response from you no later than May 6, 2004.

Sincerely,

James C. Bierer  
FCAB Chair

Lisa Crawford  
FCAB Vice-Chair

cc:  
Senator Mike DeWine  
Senator George Voinovich  
Representative John Boehner  
Representative Steve Chabot  
Representative David Hobson  
Representative Rob Portman  
SSAB Chairs  
Bob Warther

United States Government

Department of Energy

# Memorandum

DATE: APR 06 2004

REPLY  
TO  
ATTN OF: EM-23 (John Lehr, 301-903-2011)

SUBJECT: Draft Fernald Environmental Management Closure Project Risk-Based End State Vision Document

TO: Robert F. Warther, Manager, Ohio Field Office

The principles of the Department of Energy's (DOE) Top-to-Bottom Review have transformed the Office of Environmental Management's purpose from simply managing risk at the expense of taxpayers, to accelerating real risk reduction by expeditiously cleaning up the Cold War legacy. A cornerstone of this effort is the development of a site-specific Risk-Based End State (RBES) Vision Document for each DOE site, pursuant to DOE Policy 455.1, *Use of Risk-based End States*, and associated guidance. RBES and its documentation in an associated RBES Vision Document depict appropriately protective and sustainable site conditions, by which current regulatory and other parameters can be described, evaluated and contrasted. This is not a decision document, rather, it is intended to support informed decisionmaking regarding responsible site cleanup. Development of a RBES Vision and identification of potential variances from a current end state do not signal an intent to perform less cleanup, nor to pursue shortcuts around current laws, regulations or agreements. Furthermore, while a RBES approach may ultimately reduce cleanup costs, the RBES vision is not driven by cost considerations.

My office has reviewed the draft Fernald Closure Project RBES Document. The review determined that the document generally meets the requirements of the RBES policy and guidance. The February draft is well-written and appears to be complete. Additional information has been included in response to comments from the previous draft. New text describing ecological risk assessments performed and how the results were incorporated into the remedial strategy has been included. Citations for risk assessment and other records of decision reports have been added. The end-state use is appropriately risk-based and is consistent with the surrounding land uses. The end-state land use also has buy-in from stakeholders.

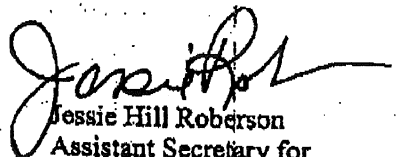
Additional information and detailed comments from review of the draft RBES Vision Document will be provided by my staff for your use in improving your RBES documentation for resubmission. Final documents particularly should address the identified risk management issues should clearly identify the basis for, timing of, and uncertainty in risk estimates.

Because of the importance of involving stakeholders in the RBES Vision process, I want to ensure that there is adequate time for this to occur. No RBES Vision Document will be considered final without having benefited from an open and timely public outreach initiative.

RBES Vision documents must reflect this dialog and be sensitive to stakeholders concerns. We will not proceed without this step, but because RBES Vision development is essential for informed decisionmaking in the cleanup process, plan to complete the document by September 1, 2004. Please submit a schedule to headquarters outlining major milestones for RBES document development and public interactions that reflect this completion date.

Note that there is not a direct linkage between identification of a variance from a baseline and actual pursuit of that objective. If it is in fact, decided that a particular risk-based approach is suitable, we will ensure that all appropriate legal and regulatory requirements are followed in actions to implement any revised approach.

If you should have any questions, please contact Mr. Eugene C. Schmitt, Deputy Assistant Secretary for Environmental Cleanup and Acceleration, at (202) 586-0755 or Mr. John Lehr at (301) 903-2011.

  
Jessie Hill Roberson  
Assistant Secretary for  
Environmental Management

cc: W.J. Taylor, Manager, Fernald Closure Project Office



## Department of Energy

Ohio Field Office  
175 Tri County Parkway  
Springdale, Ohio 45246

April 9, 2004

Mr. Todd Portune  
Board of Commissioners  
County Administration Building  
138 E. Court Street, Room 603  
Cincinnati, Ohio 45202

OH-0289-04

Dear Commissioner Portune:

I am writing in response to your March 22 letter to clarify the Department of Energy's Risk Based End States (RBES) policy.

During our March 1 meeting with the Hamilton County Commissioners, and in several previous meetings with local elected officials and stakeholders, we stated that due to public concerns DOE would not pursue any changes to currently approved groundwater remediation levels or uranium discharge limits. This modification to Fernald's initial RBES proposal has been approved by DOE- HQ Office of Environmental Management (EM-1), the office with programmatic responsibilities for DOE's RBES initiative. Other components of our RBES strategy, not related to groundwater, remain in our draft RBES Vision document, which has been submitted, along with all stakeholder comments, to EM-1 for review. The enclosed April 6 memorandum from EM-1 provides the latest guidance on the RBES path forward. While final documents are not now due to HQ until September 1, 2004, Fernald's will likely be submitted shortly after resolution of HQ comments, since extensive public input has already taken place with regulators and stakeholders. EM-1 will then determine if any of Fernald's remaining RBES proposals should be pursued.

As we said during our March 1 meeting, DOE cannot unilaterally change a Record of Decision or any legally binding regulatory agreement. Changes in such agreements can only be achieved with the involvement of Fernald's stakeholders and the approval of the U.S. and Ohio Environmental Protection Agencies. You will recall that Mr. Tom Winston from the Ohio Environmental Protection Agency (OEPA), stated at the meeting that his agency is not receptive to any changes in the Fernald cleanup. Lisa Crawford, speaking for local residents, also stated categorical opposition to any changes in Fernald's cleanup. Based on this reality, and the fact that such stakeholder and regulator comments are contained in the RBES document submitted to HQ, it is extremely unlikely that EM-1 will direct Fernald to pursue any significant changes in the site's approved Records of Decision. We will keep you informed on all RBES developments, including any guidance that Fernald receives from DOE Headquarters.

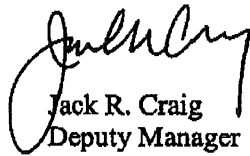


Mr. Todd Portune

-2-

In closing, I would like to invite you to visit Fernald for a site tour. Calendar Year 2004 promises to be pivotal in the cleanup, and we look forward to your continuing interest and involvement at Fernald.

Sincerely,



Jack R. Craig  
Deputy Manager

Enclosure: As Stated

cc w/enclosure:

William Muno, USEPA

Tom Winston, OEPA

William J. Taylor, OH/FCP

J. S. Dowlin, Hamilton County,

Board of Commissioners

P. Heimlich, Hamilton County,

Board of Commissioners